



# RICHARD J. "DICK" SPANBAUER

STATE REPRESENTATIVE • 53<sup>rd</sup> ASSEMBLY DISTRICT

P.O. Box 8953  
Madison, WI 53708

(608) 267-7990  
Toll-Free: (888) 534-0053  
Fax: (608) 282-3653  
Rep.Spanbauer@legis.wi.gov

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## Assembly Committee on Judiciary and Ethics

### Assembly Bill 168

Thank you, Chairman Ott and members, for the opportunity to speak today in favor of Assembly Bill 168.

Under current law, a former prisoner who claims to have been wrongfully convicted of the charges for which he or she was imprisoned may petition the Claims Board for compensation for the imprisonment. If the petitioner is able to provide *clear and convincing evidence* of his or her innocence, the Board may grant the petitioner an amount that will "equitably compensate" him or her. However, Wisconsin limits the compensation for each year in prison to \$5,000. In addition, Wisconsin caps total compensation at \$25,000, regardless of the number of years spent in prison, although the Claims Board may recommend that the Legislature approve additional compensation to a particular exoneree.

The \$5,000 and \$25,000 limits were set in 1980, and only minor changes to the statute as a whole have been made since. AB 168 makes the system fairer in four ways:

- AB 168 triples the maximum annual compensation rate to \$15,000. This roughly reflects inflation since 1980, although Wisconsin will still be at the low end of compensation, at least among the twenty-seven states that permit compensation for wrongful convictions. (For example, Michigan and Minnesota do not provide for compensation.)
- AB 168 indexes the compensation rate for inflation going forward, so that the rate does not depend on the Legislature revisiting the issue every few years or decades.
- AB 168 eliminates the overall cap, so that an exoneree will be compensated for each year he or she spent in prison.
- AB 168 exempts wrongful conviction compensation from state income taxes. Several states already do this, including California, Massachusetts, Mississippi, Utah, and Vermont.

The Claims Board would still be able to recommend that the Legislature approve additional compensation to a particular exoneree if it feels that the compensation permitted under this bill ( $\$15,000 \times \text{years in prison}$ ) is inadequate.



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Compensation for wrongful convictions is an exceptional remedy for what we should all hope are exceptional cases – cases where someone went to prison for something he or she did not do. I believe the changes included in AB 168 are a small price to pay for the lasting damage that has been done to exoneree's lives, families, careers, and reputations. When the criminal justice system makes a mistake, the state owes it to the exoneree to make up for what he or she has gone through.

This proposal will not "break the bank". The "clear and convincing" standard for proving innocence is very high. It is not just a matter of raising a reasonable doubt of guilt; the petitioner essentially has to prove that he or she did not do the act, and the petitioner must also have not made any false confessions. To give you an idea of how rare successful petitions are: Since the beginning of 2001, which is as far back as the Claims Board's website ([claimsboard.wi.gov](http://claimsboard.wi.gov)) goes, the Board has received only eleven petitions for compensation for wrongful conviction. Of those eleven, the board has approved only *six*.

As you can see from the list of cosponsors, AB 168 has support from members of both the Assembly and the Senate, and – more importantly – support from members of both parties, which I think reflects the importance of this issue. I hope that this committee will hold an executive session to vote on AB 168 in the near future.

Thank you again for this opportunity to testify on behalf of Assembly Bill 168.